



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OFFICE OF
SOLID WASTE AND EMERGENCY
RESPONSE

--REPRINT FROM COPY--

MARCH 2, 1990

Mr. Daniel P. Gross
Division of Environmental Protection
201 South Fall Street
Carson City, Nevada 89710

Dear Mr. Gross:

Thank you for your letter dated July 17, 1989, concerning the Bevill Amendment exclusion as it applies to laboratory wastes such as fire assay cupels and nitric acid wastes generated during the assay process. After careful review of the Agency's interpretation of the Bevill Exclusion, we have determined that laboratory wastes are not uniquely associated with mineral exploration, development, and production. These wastes, therefore, including those produced onsite and those produced by off-site commercial laboratories, are not excluded from RCRA Subtitle C regulation by the Bevill Amendment.

The concept of "uniquely associated" has been used consistently by the Agency as a factor in determining which wastes would remain under the Bevill Amendment. (See 45 FR 76619, November 19, 1980, and 54 FR 36616, September 1, 1989; copies enclosed.) Laboratory wastes clearly are not uniquely associated with the mining and mineral production industry.

5mt The letter from John P. Lehman (EPA) to Thomas J. Fronapfel (State of Nevada) dated May 9, 1994 is incorrect in its assertion that wastes such as cupels are from the extraction, beneficiation and processing of ores and minerals, and are therefore temporarily exempt from RCRA Subtitle C regulation. That letter was prepared prior to the completion of the Report to Congress on extraction and beneficiation wastes, when the Agency had little knowledge of the industry or wastestreams involved.

If you have any further questions concerning the status of these wastes, please contact Dan Derkics or Bob Hall of my staff at 202-383-3608 or 202-475-8814, respectively.

Enclosures

Sincerely,

Robert Tonetti
Acting Deputy Director
Waste Management Division